



Docket No.: 21058/0206803-US0
Intel Corporation
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Scott Sibbett

Application No.: 10/814,979

Filed: March 30, 2004

For: COUNTER ELECTROSEPARATION DEVICE
WITH INTEGRAL PUMP AND SIDEARMS
FOR IMPROVED CONTROL AND
SEPARATION

Assignee: Intel Corporation

Confirmation No.: 8637

Art Unit: 1795

Examiner: A. S. Noguerola

**RESPONSE TO NOTICE OF IMPROPER
REQUEST FOR CONTINUED EXAMINATION (RCE)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper is in response to the Notice of Improper Request for Continued Examination (RCE) mailed November 8, 2007.

On August 31, 2007, the Examiner issued an improperly marked Office Action, noted as both a Non-Final and Final Office Action. Applicant's attorneys proceeded to file an RCE and First Preliminary Amendment on October 31, 2007, in response to the improperly marked Office Action, under the assumption that it was a Final Action. Applicant's attorneys have now received notification from the Examiner that the Office Action of August 31, 2007 was supposed to be marked as a Non-Final Action.

Applicant's attorneys respectfully request the Examiner to consider the First Preliminary Amendment filed on October 31, 2007 as an Amendment under 37 C.F.R. §1.111. A Request for Refund accompanies this Response, for the refund of the Request for Continued Examination (RCE) fees paid on October 31, 2007.

Dated: November 19, 2007

Respectfully submitted,

By /Raj S. Davé/
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Paper No.

Application No.: 10/814,979 **Date Mailed:** 11/08/2007



First Named Inventor: Sibbett, Scott, **Examiner:** NOGUEROLA, ALEXANDER STEPHAN

Attorney Docket No.: 21058/0206803-US0 **Art Unit:** 1795

Confirmation No.: 8637 **Filing Date:** 03/30/2004

Please find attached an Office communication concerning this application or proceeding.

Commissioner for Patents

**NOTICE OF IMPROPER REQUEST FOR
CONTINUED EXAMINATION (RCE)**

Application No.
10/814,979

Applicant(s)
SIBBETT, SCOTT
Art Unit
1700
Date Mailed:

The request for continued examination (RCE) under 37 CFR 1.114 filed on 31 October, 2007 is improper for reason(s) indicated below:

1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d). An RCE cannot be treated as a CPA.
2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b).
3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on . Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

Note: A continued prosecution application (CPA) under 37 CFR 1.53(d) cannot be filed in a utility or plant application. A CPA filed in a utility or plant application that has a filing date on or after June 8, 1995 will be treated as an RCE under 37 CFR 1.114. The request for a CPA in the instant application, however, has been treated as an improper RCE for the reason(s) indicated above.

A copy of this Notice MUST be returned with the reply.

Direct any questions concerning this notice to

BRENDA MURPHY, Technology Center 1700

Telephone Number: 571 272-1033